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Supreme Court, U.S.
FILED
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No.

In The

Supreme Court of the United States

HOWARD M. TILLISON,
Petitioner,

v.

INVISIBLE, INC., a Colorado Corporation,
Respondent.

On Petition for Writ of Certiorari
To The Colorado Court of Appeals.

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED FOR REVIEW

This controversy stems from Petitioner's action to register and enforce a "foreign" California Municipal Court judgment in the State of Colorado. The Colorado trial court dismissed Petitioner's registration action, finding that the judgment of the California court is "not a final judgment entitled to full faith and credit in Colorado."

The Colorado Court of Appeals affirmed the judgment of the trial court, finding that: (1) the California judgment is not entitled to full faith and credit in the State of Colorado and; (2) that the preclusive effects of the California judgment are limited to the State of California.

The Colorado Supreme Court refused to review the case.

Petitioner Tillison now poses the following questions:

Whether the judgment entered by the Colorado Court of Appeals conflicts with relevant decisions of the United States Supreme Court regarding the requirement to grant Full Faith and Credit to the final judgment of a state court pursuant to Article IV, § 1, U. S. Constitution, the "Full Faith and Credit Clause."

Whether the judgment entered by the Colorado Court of Appeals denied Petitioner's rights to Due Process and Equal Protection of the law pursuant to Article XIV, § 1, U. S. Constitution, the "Fourteenth Amendment."

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JURISDICTION

The Opinion of the Colorado Court of Appeals entered in Case 99CA2159 on December 21, 2000 affirmed the judgment of the Routt County District Court in Case Number 99CV104. The Court of Appeals subsequently denied a December 27, 2000 Petition for Rehearing, without opinion, on February 1, 2001.

Petitioner filed a Petition for Writ of Certiorari in the Colorado Supreme Court, Case 01SC122 on February 16, 2001. The Petition was denied on May 21, 2001 without opinion. A Petition for Rehearing was filed on June 4, 2001, and denied by the Court without opinion on June 7, 2001. (Appendix, page A-11)

Jurisdiction in this Court is conveyed by 28 U.S.C. § 1257. In this instance, the December 21, 2000 Opinion of the Colorado Court of Appeals is subject to review by the United States Supreme Court pursuant to Rule 10.1.(c).

The federal issues raised in this case stem from Article IV, § 1, of the U. S. Constitution, the "Full Faith and Credit Clause," and the Due Process and Equal Protection clauses of Article XIV, § 1, (the Fourteenth Amendment).

CONSTITUTIONAL PROVISIONS AND STATUTES

Article IV, § 1, of the U. S. Constitution:

> "Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof."

28 U.S.C. § 1738:

"The Acts of the legislature of any State, Territory, or Possession of the United States, or copies thereof, shall be authenticated by affixing the seal of such State, Territory or Possession thereto."

"The records and judicial proceedings of any court of any such State, Territory or Possession, or copies thereof, shall be proved or admitted in other courts within the United States and its Territories and Possessions by the attestation of the clerk and seal of the court annexed, if a seal exists, together with a certificate of a judge of the court that the said attestation is in proper form."

"Such Acts, records and judicial proceedings or copies thereof, so authenticated, shall have the same full faith and credit in every court within the United States and its Territories and Possessions as they have by law or usage in the courts of such State, Territory or Possession from which they are taken."

Article XIV, § 1, of the U. S. Constitution:

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

STATEMENT OF THE CASE

The Issues

This case revolves around two federal constitutional issues.

First, the Colorado Court of Appeals found that a final judgment of a California state court was not entitled to full faith and credit in the State of Colorado, contrary to the requirements of Article IV, § 1, U. S. Constitution and 28 U.S.C. § 1738, the "Full Faith and Credit Act."

Second, by refusing to grant full faith and credit to the California judgment, the Colorado Court of Appeals denied Petitioner's Fourteenth Amendment rights to Due Process and Equal Protection.

Background

This case stems from a March 31, 1995 business transaction between Petitioner Tillison and Respondent Invisible, Inc. (Invisible), a Colorado corporation. Tillison purchased a "going business," (a small restaurant) from Invisible and took over the operation on April 1, 1995.

A dispute arose between the parties regarding: (1) The condition and serviceability of certain pieces of equipment conveyed from Invisible to Tillison in the transaction, and; (2) the accuracy of financial statements furnished to Tillison by Invisible as an inducement to enter into the original transaction.

Over the course the next of thirteen months, Tillison became insolvent due to financial losses arising from the operation of the business and was forced to default on a promissory note in the amount of five

thousand dollars taken out with Invisible in the March 31, 1995 transaction.

Invisible sued Tillison in the Routt County Colorado District Court for the outstanding balance of the promissory note in 1997.

The details of the case at bar follow.

Chronology

Respondent Invisible obtained a default judgment for debt against Petitioner Tillison in the Routt County Colorado District Court on May 7, 1997, Case Number 97CV30. Invisible subsequently registered the Colorado judgment in the Kern County California Municipal Court and commenced an enforcement action against Tillison on January 5, 1999, Case Number CI-06126. The California enforcement action was a "special proceeding" pursuant to California Code of Civil Procedure (CCP) Sections 1710.10 - 1710.65 (See Appendix, page A-15).

Tillison filed a timely Motion to Vacate the entry of the Colorado judgment in the State of California in accordance with CCP 1710.40. (See Appendix, page A-18.) Notice was served upon Respondent's California attorney, and a hearing was set for May 25th, 1999 in the Kern County Municipal Court.

Invisible did not file timely opposing papers or raise any other objection within the time allowed by California law. Invisible filed a frivolous Motion to Withdraw the California action less than twenty-four hours prior to the opening of the hearing, but the Motion could not be considered by the Court due to lack of personal service upon Tillison and untimely (nine days too late) filing. (See CCP 1005(b), Appendix, page A-13, 14.)

Invisible did not appear at the May 25th, 1999 hearing. Petitioner Tillison appeared "in pro per" (*pro se*).

After reviewing the papers on file with the court and hearing Tillison's oral arguments, the California Court vacated the entry of judgment on sister-state judgment. Neither party requested a transcript of the hearing. A written Order After Hearing was entered on June 15, 1999.

The Clerk of the Kern County Municipal Court served Invisible with a Notice of entry of judgment. Invisible did not file an objection.

Invisible did not appeal the California judgment, and it became final for all purposes on September 14, 1999.

In the meantime, Petitioner Tillison filed an authenticated copy of the California judgment from CI-06126 in the Routt County (Colorado) District Court, Case Number 99CV104, on July 13, 1999. The Clerk of the Colorado court issued a Notice of Entry of Judgment on September 14, 1999, showing that the Colorado default judgment entered against Tillison in 97CV30 had been vacated.

Respondent Invisible promptly filed a Motion to Dismiss Petitioner Tillison's action in 99CV104 on September 17, 1999, claiming that the Order After Hearing entered by the California Court in CI-06126 was, "not a judgment." Tillison filed a counter-motion on October 1, 1999. Both parties filed subsequent opposing motions.

The Routt County District Court dismissed Petitioner Tillison's registration action in 99CV104 by entering an Order to that effect on October 21, 1999. The trial court found that the California judgment, " . . .

simply prevents Invisible from enforcing the Colorado Judgment in California." (See Order, paragraph 3, Appendix, page A-3) The text of the Order plainly shows that the Court explicitly ruled upon the issue of full faith and credit by entering a statement that the California judgment was, "not a final judgment entitled to full faith and credit in Colorado." (See Order, paragraph 5, Appendix, page A-4)

Petitioner Tillison filed a Motion for Relief from Order on November 4, 1999, citing reversible error on grounds of Article IV, § 1, of the U. S. Constitution, the "Full Faith and Credit Clause." The Court denied the Motion for Relief on November 5, 1999, without an entry of findings regarding the federal issue.

Tillison filed a timely Notice of Appeal in the Colorado Court of Appeals, Case Number 99CA2159, on November 22, 1999. The issue of Full Faith and Credit pursuant to Article IV, § 1, U. S. Constitution, was raised by Petitioner in that Notice (see record, Notice of Appeal, page 4, paragraph 4).

The federal issues of Full Faith and Credit pursuant to Article IV, § 1, and 28 U.S.C. § 1738 were both raised in Petitioner's Opening Brief filed in 99CA2159, dated April 4, 2000 (see record, Opening Brief, page 7).

The Colorado Court of Appeals issued an Opinion affirming the trial court's decision in 99CV104 on December 21, 2000 (Appendix, page A-5). The scant three-page Opinion consisted of eight paragraphs limited to approximately 450 words. The Court did not explicitly address any of the federal issues raised by Petitioner, only dealing with "full faith and credit" as a Colorado state issue.

In paragraph 4 of the Opinion, the Court of Appeals entered the following finding: "Plaintiff contends that the trial court erred in dismissing the proceeding, ar-

guing that the California order is subject to the Act and entitled to full faith and credit. We disagree."[1]

The Colorado Court of Appeals found the following in paragraph 6 of the Opinion:

> "Here, the California order vacating the entry of judgment on the sister-state judgment merely prevents defendant from enforcing the Colorado judgment in California. It does not create any substantive rights in plaintiff, nor does it affect the validity of the underlying Colorado judgment. *See Marworth, Inc. v. McGuire,* supra. Thus, the filing of the California order in Colorado would serve only to reflect that the Colorado judgment cannot be enforced in California. Accordingly, we conclude that the trial court did not err in dismissing this proceeding."[2]

Tillison filed a timely Petition for Rehearing in the Colorado Court of Appeals on December 27, 2000, once again raising the federal full faith and credit issue (see record, page 1, Petition for Rehearing). The

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[1] The "Act" referred to by the Court of Appeals is the Colorado Uniform Enforcement of Foreign Judgments Act, C.R.S. § 13-53-101 et. seq. (Appendix, page A-22). See Opinion, paragraph 3 (Appendix, page A-6).

[2] *Marworth, Inc. v. McGuire,* 810 p.2d 653 (Colo. 1991). The Colorado Supreme Court found in this case that the Colorado Court of Appeals had erred by sustaining an attack on the merits of a Texas state court judgment and reversed the judgment entered by the Court of Appeals in *Marworth Inc. v. McGuire,* 787 P.2d 200 (Colo.App. 1989).

Petition for Rehearing was denied by the Court on February 1, 2001, without further opinion (Appendix, A-8).

Petitioner Tillison filed a timely Petition for Writ of Certiorari in the Colorado Supreme Court, Case 01SC122, on February 16, 2001, once again raising the federal full faith and credit issue (record, page 2, Petition for Writ of Certiorari). The Petition was denied on May 21, 2001 (Appendix, page A-9).

Tillison filed a timely Petition for Rehearing in 01SC122 on June 2, 2001, raising the Due Process and Equal Protection clauses of Article XIV, U. S. Constitution (record, Petition for Rehearing, page 1), and again raising 28 U.S.C. § 1738 (record, Petition for Rehearing, page 2). The Petition for Rehearing was denied by Order of the Colorado Supreme Court on June 7, 2001, without opinion (Appendix, page A-11).

There was no further action in the state courts.

SUMMARY OF THE ARGUMENT

The judgment entered by the Kern County California Municipal Court in Case Number CI-06126 is entitled to nationwide full faith and credit pursuant to Article IV, § 1, of the U. S. Constitution, the "Full Faith and Credit Clause," and by the implementing statute, 28 U.S.C. § 1738, "The Full Faith and Credit Act." The preclusive effects of the California judgment bar Invisible, Inc., from any further enforcement action in California. 28 U.S.C. § 1738 extends this preclusive effect to every court of the United States. The Colorado courts are bound by the force of federal law to enforce the preclusive effects of the California judgment against Invisible, Inc., in the State of Colorado.

The Colorado Court of Appeals erred by finding (1) that the California judgment is not entitled to full faith

and credit in Colorado and (2) that the preclusive effects of the California judgment were limited to the courts of California. The Court of Appeals thereby decided an important matter of federal law in a way that conflicts with related decisions of the United States Supreme Court.

The decision of the Colorado Court of Appeals to deny full faith and credit to the California judgment deprives Petitioner of property in a manner which is contrary to the fundamental Constitutional principles embodied in the Due Process and Equal Protection clauses of the Fourteenth Amendment, and as such, is a matter that should be settled by this Court.

Additionally, with respect to the Equal Protection clause, it is imperative that this Court review the December 21, 2000 Opinion of the Colorado Court of Appeals for the following reason: The published final opinions of the Colorado appellate courts have consistently granted full faith and credit to sister-state judgments, while the unpublished Opinion entered in this case denies full faith and credit even though the very same federal requirements apply. It is clear that a double standard has been applied in the case at bar, and that this action by the Colorado Court of Appeals is a direct challenge to the supremacy of federal law and the power of the United States Supreme Court.

ARGUMENT

I. Full Faith and Credit

The final judgment entered by the Kern County Municipal Court in CI-06126 is binding upon Respondent Invisible throughout the land by the force of Article IV, § 1, of the U. S. Constitution and 28 U.S.C. § 1738, the "Full Faith and Credit

Act." The preclusive effects of the California judgment bar Invisible, Inc., from enforcing the Colorado judgment entered in Routt County District Court Case 97CV30 in Colorado or any other state.

The Colorado Court of Appeals erred by concluding that the California judgment is not entitled to full faith and credit in the State of Colorado (see Opinion, paragraph 4, Appendix page A-6).

The Colorado Court of Appeals further erred by concluding that, "the California order vacating the entry of judgment on the sister-state judgment merely prevents defendant from enforcing the Colorado judgment in California . . ." and that, "the filing of the California order in Colorado would serve only to reflect that the Colorado judgment cannot be enforced in California." (See Opinion, paragraph 6, Appendix page A-6.)

It is apparent from the relevant decisions of the United States Supreme Court that the Colorado courts are bound by Article IV, § 1, U. S. Constitution and 28 U.S.C. § 1738 to grant full faith and credit to the California judgment. Further, the United States Supreme Court has unwaveringly maintained the position that a judgment of a state court is entitled to the same effect in every other court of the United States which it would have in the state where judgment was pronounced.

Writing in *Underwriters Nat. Assurance Co. v. North Carolina Life & Accident & Health Ins. Guaranty Assn.*, 455 U. S. 691 (1982), Justice Marshall found:

> The concept of full faith and credit is central to our system of jurisprudence. Ours is a union of States, each having its own judicial system capable of adjudicating the rights and responsi-

bilities of the parties brought before it. Given this structure, there is always a risk that two or more States will exercise their power over the same case or controversy, with the uncertainty, confusion, and delay that necessarily accompany relitigation of the same issue. See *Sherrer v. Sherrer*, 334 U.S. 343, 355 (1948); *Riley v. New York Trust Co.*, 315 U.S. 343, 348-349 (1942). Recognizing that this risk of relitigation inheres in our federal system, the Framers provided that "Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State." U.S. Const., Art. IV, § 1. This Court has consistently recognized that, in order to fulfill this constitutional mandate, "the judgment of a state court should have the same credit, validity, and effect, in every other court of the United States, which it had in the state where it was pronounced."

This Court also found in *Matsushita Elec. Industrial Co. v. Epstein*, 516 U. S. 367 (1996):

> The Full Faith and Credit Act mandates that the "judicial proceedings" of any State "shall have the same full faith and credit in every court within the United States . . . as they have by law or usage in the courts of such State . . . from which they are taken." 28 U. S. C. Section(s) 1738.

See also: *Baker v. General Motors Corp.*, 522 U. S. 222 (1998); *Marworth Inc. v. McGuire*, 810 P.2d 653 (Colo. 1991).

The record shows that Petitioner Tillison fairly argued the federal issue of full faith and credit at length in papers filed in the Colorado trial court and in the Colorado Court of Appeals. See: Motion for Relief

from Order filed in 99CV104 (page 1); Notice of Appeal (page 4); Opening Brief (pages 7-10, 14, 16, 24-25); Reply Brief (pages 4-7, 9, 14, 16-17); Petition for Rehearing (page 1). Neither the trial court or the Colorado Court of Appeals entered any finding with respect to the federal issues.

It is clear that the findings entered in the Opinion in 99CA2159 have absolutely no support under federal law, and conflict with multiple relevant decisions of the United States Supreme Court. Petitioner therefore respectfully petitions the United States Supreme Court to grant certiorari to review the judgment of the Colorado Court of Appeals.

II. The Fourteenth Amendment

The Colorado Court of Appeals denied Petitioner Tillison's Fourteenth Amendment Rights to Due Process and Equal Protection of the law. This denial adversely affects Tillison's rights as a property owner in the State of Colorado, and leaves the door open to a multitude of enforcement actions in any of the other jurisdictions where Tillison may reside in the future.

Respondent Invisible made the decision to submit this controversy to the jurisdiction of the California courts in order to benefit from the operation of California law, and is now bound by the final judgment entered in the California court. See California Code of Civil Procedure (CCP) 1064.[3]

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[3] CCP 1064 "A judgment in a special proceeding is the final determination of the rights of the parties therein. The definitions of a motion and an order in a civil action are applicable to similar acts in a special proceeding."

The findings entered by the Colorado trial court in 99CV104 were obviously contrived to counteract the preclusive effects of the California judgment, i. e., to preserve Invisible's right to enforce the earlier Colorado judgment from 97CV30 in the Colorado courts and in any other forum which might become available. The failure of the Colorado Court of Appeals to reverse the judgment of the trial court on grounds of the federal requirement for full faith and credit is a direct denial of Petitioner Tillison's Fourteenth Amendment rights to Due Process and Equal Protection.

A. The Issue of Due Process

The Colorado courts have absolutely no subject matter jurisdiction at all to relitigate a matter that was decided by a California court. The attack upon the merits of the California judgment mounted by the trial court, and the subsequent affirmation of the trial court's judgment by the Colorado Court of Appeals, are moot.

Petitioner does not claim that the judgment of the California court binds the Colorado courts, because it is apparent that a court of one state cannot accomplish an official action in a sister state. At the same time, the Colorado courts are bound by federal law to grant full faith and credit to the judgments of sister-state courts. The California judgment therefore settles the controversy between Invisible and Tillison, and the Colorado courts are bound by 28 U.S.C. § 1738 to grant the preclusive effects of the California judgment in a manner that protects Tillison from any further enforcement action by Invisible.

There can be absolutely no doubt that Invisible allowed the judgment of the California Court to become final. Whatever the reason, Invisible failed to act, and forfeited the right to enforce the Colorado judgment as a result. The United States Supreme Court found in

California State Bd. of Equalization v. Sierra Summit, Inc., 490 U. S. 844 (1989) that:

> "A final judgment on the merits of an action precludes the parties or their privies from relitigating issues that were or could have been raised in that action . . . Nor are the res judicata consequences of a final, unappealed judgment on the merits altered by the fact that the judgment may have been wrong or rested on a legal principle subsequently overruled in another case." *Federated Department Stores, Inc. v. Moitie*, 452 U.S. 394 (1981).

The judgment of the Colorado Court of Appeals directly affects Petitioner Tillison's ownership of a parcel of real property located in Routt County, Colorado. Invisible holds a judgment lien from Routt County District Court Case 97CV30 which, as matters currently stand under Colorado law, may be enforced by foreclosure upon Tillison's property at any time. It is clear that the judgment of the Colorado Court of Appeals violates Tillison's right to Due Process by affirming Invisible's claim against that property.

Tillison therefore believes that the Colorado Court of Appeals has decided an important matter of federal law in a way that contradicts the relevant decisions of the United States Supreme Court.

B. The Issue of Equal Protection

The action of the Colorado Court of Appeals has deprived Tillison of his Fourteenth Amendment right to Equal Protection. Under federal law, the preclusive effects of the California judgment in CI-06126 and the operation of 28 U.S.C. § 1738 relieve Tillison from the effects of the earlier Colorado judgment entered in 97CV30. The Colorado Court of Appeals has defied

federal law by sustaining Invisible's right to enforce the Colorado judgment.

As long as the judgment from 97CV30 remains on the books in Colorado, Invisible may continue to file enforcement actions against Tillison in any jurisdiction where he may choose to reside outside the State of California. Further, the appearance of an unsatisfied judgment against Tillison in the records of the Routt County District Court unfairly constrains Tillison's ability to obtain credit, to obtain financing to improve or maintain his Colorado real property, and to profit from the sale of that property. It is clear that the Colorado courts have denied Petitioner the protection from further court action to which he is rightfully entitled by the preclusive effects of the California judgment and the operation of 28 U.S.C. § 1738.

Tillison therefore respectfully petitions this Court to grant certiorari to review the Opinion of the Colorado Court of Appeals on the grounds that important matters of federal law, namely Tillison's Fourteenth Amendment right to Equal Protection, should be settled by the United States Supreme Court.

III. Double Standard

The Opinion entered by the Colorado Court of Appeals is not supported by any decision of the United States Supreme Court, and in fact, is also specifically contrary to the published opinions of the Colorado Supreme Court. It is clear that the Court of Appeals has ignored every relevant controlling authority and denied Tillison's constitutional right to Equal Protection of the law.

Petitioner Tillison believes that the actions of the Colorado Courts in this controversy constitute a grievous violation of the rights and protections granted to

all citizens of the United States by Article IV, § 1, and Article XIV, § 1, of the U. S. Constitution.

The Colorado Court of Appeals has clearly applied a double standard in this controversy. The opinion entered by the Colorado Court of Appeals in 99CA2159 was "not selected for publication." As such, the unpublished decision of the Court is effectively hidden from public scrutiny, and is not a binding precedent outside of the case at bar. At the same time, prior published opinions of the Colorado Court of Appeals and the Colorado Supreme Court have upheld the federal full faith and credit requirements of Article IV, § 1, and 28 U.S.C. § 1738. See *Marworth Inc. v. McGuire*, 810 P.2d 653 (Colo. 1991); see also *In re Marriage of Dickson*, No. 97CA1824 (Colo.App. 1998).

The inconsistencies between the published opinions of the Colorado appellate courts noted above and the unpublished opinion entered in 99CA2159 defy explanation. The very same finding entered by the Colorado Court of Appeals in *In re Marriage of Dickson*, supra, could be applied to the case at bar: "Under U.S. Const. art. IV, §1, a final judgment of one state must be given full faith and credit in every other state. *Marworth, Inc. v. McGuire*, 810 P.2d 653 (Colo. 1991)."

The Colorado trial court could have, and should have, made the very same finding and settled this matter two years ago. The Colorado Court of Appeals, inexplicably, cited the very same decision (*Marworth, Inc. v. McGuire*, supra) as justification to deny Tillison's Colorado registration action (see Opinion, paragraph 5, Appendix page A-6).

Petitioner believes that it should be apparent to this Court that the Colorado Court of Appeals has completely abandoned any premise of fairness or equal protection. The Opinion entered by the Court of Appeals is, at the very least, arbitrary, whimsical and

completely lacking in substantive support. At worst, the Opinion shows a willful abuse of discretion that favors one party over another without any basis in law.

In the case at bar, the Colorado courts have stonewalled on the federal full faith and credit requirements and forced Petitioner to pursue an appeal in each of the higher courts until the United States Supreme Court became the court of last resort. In the meantime, Tillison has suffered continuing financial losses and been deprived of the unencumbered ownership of his Colorado property for over two years. It is clear that this controversy is not a simple matter of principle, but instead, affects the ownership of assets conservatively valued by the Routt County Assessor's Office in excess of $180,000.00.[4]

The final resolution of this controversy has, regrettably, been left to the discretion of the United States Supreme Court. Petitioner understands that a controversy settled in an inferior court of the State of California should not rise to a level of national importance, however, it is clear that the Colorado Courts have violated the requirements of federal law and ignored the decisions of this Court. If this Court does not grant certiorari to review the Opinion of the Colorado Court of Appeals, the Colorado courts will have been allowed to defeat the force of federal law and defy the authority of this Court. Once that line is successfully crossed, the Colorado courts will have a model to follow in future cases where state concerns conflict with the constitutional rights of citizens.

Tillison therefore respectfully petitions this Court to review the opinion entered by the Colorado Court of

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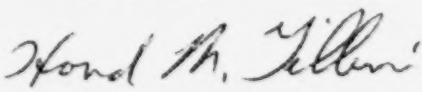
[4] The 2001 "Notice of Valuation" of the property encumbered by Invisible's judgment lien from 97CV30 shows an assessed value of $184,010.00.

Appeals in Case 99CA2159 on the grounds that the Court of Appeals has denied Tillison's Fourteenth Amendment right to equal protection, and that this is an important matter of federal law which should be settled by the Supreme Court of the United States.

CONCLUSION

For the reasons set forth above, the judgment of the Colorado Court of Appeals should be reversed.

Respectfully Submitted,



Date: September 4, 2001

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APPENDIX

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OPINION OF THE COLORADO COURT OF APPEALS

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ORDER OF THE TRIAL COURT

DISTRICT COURT, ROUTT COUNTY, COLORADO
Case No. 99CV104

ORDER

HOWARD M. TILLISON, Judgment Debtor,

v.

INVISIBLE, INC. a Colorado Corporation, Judgment Creditor.

On May 7, 1997, a personal judgment was entered in favor of Invisible, Inc., a Colorado corporation ("Invisible"), and against Howard M. Tillison ("Tillison"), in the amount of $6,023.19, in Case No. 97CV30, Routt County District Court, Colorado ("Colorado Judgment"). Invisible sought to have a "Sister-State" judgment entered in Case No. CI-06126, Kern County Municipal Court, California, on the Colorado Judgment. Tillison filed a Motion to Vacate Sister-State Judgment, which Motion was granted on June 15, 1999 ("California Order"). The Order granting Tillison's Motion contains no findings, and simply states "[t]he Entry of Judgment on Sister-State Judgment is vacated."

Tillison commenced this proceeding by filing an authenticated copy of the California Order under the Uniform Enforcement of Foreign Judgments Act, C.R.S. 13-53-101 et. seq. On September 17, 1999, Invisible filed a Motion to Dismiss this proceeding. Having reviewed the Motion to Dismiss, and all related

documents, and being advised of the record in this case, I grant the Motion to Dismiss for the reasons stated below.

Proceedings under C.R.S. 13-53-101 et. seq. are designed to allow the enforcement of judgments or orders across state lines. The California Order does not enter a personal judgment against Invisible, does not require Invisible to do anything, does not award any property, and does not declare the status of the parties or purport to resolve any controversy, and does not otherwise require any enforcement. Contrary to Tillison's argument, the California Order does not purport to reopen, set aside, or stay the Colorado Judgment. It simply prevents Invisible from enforcing the Colorado Judgment in California.

The filing of a foreign judgment has the same effect as a judgment rendered by the court where it is filed. Griggs v. Gibson, 754 P.2d 784 (Colo.App. 1988). The California Order does not affect the validity or enforceability of the Colorado Judgment in Colorado, but only prevents its recognition in California. It serves no useful purpose to register the California Order in Colorado because the only effect of doing so is to reiterate that the Colorado Judgment may not be enforced in California.

The record of the California proceeding indicates that before the hearing on Tillison's Motion to Vacate Sister State Judgment, Invisible filed a notice of withdrawal of Sister State Judgment. The record does not show whether the California court vacated the Entry of Judgment on Sister-State Judgment because Invisible withdrew it or because of a hearing held on the merits of Tillison's Motion to Vacate. No factual findings were made. The thrust of Tillison's objection to the registration of the Colorado Judgment in California was that he had a defense of fraud to the claim of Invisible

on which the Colorado Judgment was entered. The alleged fraud related to his business transaction with Invisible and was not extrinsic fraud that would allow a court to refuse to give full faith and credit to a foreign judgment. See Jones v. Roach, 118 Ariz. 146, 575 P.2d 345 (1977). Because Tillison's fraud defense was not a proper basis for the California court to refuse to give full faith and credit to the Colorado Judgment, I conclude that the California Order not a final judgment entitled to full faith and credit in Colorado.

For the foregoing reasons, I conclude the California Order is not a foreign judgment that is the proper subject of a proceeding under C.R.S. 13-53-101 et. seq.

Although I find the California Order is not the proper subject of a proceeding under C.R.S. 13-53-101 et M., I do not find the commencement of this proceeding by this pro se litigant lacks substantial justification, and I deny Invisible's request for attorney fees. Since this action is being dismissed pursuant to Invisible's Motion, I also deny Tillison's request for attorney fees.

NOW, THEREFORE, it is

ORDERED that Invisible's Motion to Dismiss is granted and this action is dismissed.

DATED this 21st day of October, 1999.

BY THE COURT:

s/(illegible)

Joel S. Thompson, Judge

OPINION OF THE COLORADO COURT OF APPEALS

COLORADO COURT OF APPEALS December 21, 2000
No. 99CA2159 **NOT SELECTED FOR PUBLICATION**

Howard M. Tillison,

Plaintiff-Appellant,

v.

Invisible, Inc., a Colorado corporation,

Defendant-Appellee.

Appeal from the District Court of Routt County
Honorable Joel S. Thompson, Judge
No. 99CV104

Division III JUDGMENT AFFIRMED
Opinion by JUDGE KAPELKE
Ney and Dailey, JJ., concur

Howard M. Tillison, Pro Se

Stern & Newton, P.C., Richard E. Newton, Granby, Colorado, for Defendant-Appellee

Howard M. Tillison, plaintiff and judgment debtor, appeals from a trial court judgment dismissing this proceeding for enforcement of a California court order denying enforcement in California of a Colorado judgment in the amount of $6,023.19 in favor of Invisible, Inc., defendant and judgment creditor. We affirm.

Defendant obtained judgment against plaintiff in Routt County District Court, Colorado (trial court) on May 7, 1997. Thereafter, plaintiff moved to California, and defendant sought to have the Colorado judgment

entered as a "sister-state judgment" in Kern County Municipal Court, California (California court). Plaintiff responded with a "Motion to Vacate Entry of Judgment on Sister State Judgment," and defendant filed a "Notice of Withdrawal of Sister-State Judgment." On June 15, 1999, the California court entered an order (California order) granting plaintiff's motion to vacate, without making any findings.

On July 13, 1999, plaintiff filed in the trial court an authenticated copy of the California order pursuant to the Uniform Enforcement of Foreign Judgments Act, §13-53-101, et seq., C.R.S. 2000 (Act). Defendant filed a motion to dismiss, asserting that the California order was not a judgment subject to the provisions of the Act. On October 21, 1999, the trial court dismissed the proceeding. The court later denied plaintiff's motion for relief from judgment.

Plaintiff contends that the trial court erred in dismissing the proceeding, arguing that the California order is subject to the Act and entitled to full faith and credit. We disagree.

The purpose of the Act is to implement the Full Faith and Credit Clause and to provide a summary procedure for enforcing foreign judgments. Marworth, Inc. v. McGuire, 810 P.2d 653 (Colo. 1991). The Act establishes a procedure to convert a foreign judgment into a domestic judgment capable of being enforced through the judicial processes of this state. Griggs v. Gibson, 754 P.2d 783 (Colo. App. 1988).

Here, the California order vacating the entry of judgment on the sister-state judgment merely prevents defendant from enforcing the Colorado judgment in California. It does not create any substantive rights in plaintiff, nor does it affect the validity of the underlying Colorado judgment. See Marworth, Inc. v. McGuire, supra. Thus, the filing of the California order in Colorado would serve only to reflect that the Colorado judgment cannot be enforced in California.

Accordingly, we conclude that the trial court did not err in dismissing this proceeding.

Finally, because we cannot conclude that this appeal is vexatious or that it was filed solely for the purpose of harassment or delay, we deny plaintiff's request for an award of attorney fees and costs pursuant to §13-17-102, C.R.S. 2000. See Wood Bros. Homes, Inc. v. Howard, 862 P.2d 925 (Colo. 1993).

The judgment is affirmed.

JUDGE NEY and JUDGE DAILEY concur.

ORDER DENYING PETITION FOR REHEARING

COLORADO COURT OF APPEALS February 01, 2001
No. 99CA2159
ORDER DENYING PETITION FOR REHEARING

HOWARD M. TILLISON,
PLAINTIFF-APPELLANT
v.
INVISIBLE, INC., A COLORADO CORPORATION,
DEFENDANT-APPELLEE

Appeal from the ROUTT COUNTY (sic)
Honorable JOEL S THOMPSON, Judge
No. 99CV104

The PETITION FOR REHEARING filed in this appeal by:

HOWARD TILLISON/PLAINTIFF-APPELLANT

is DENIED.

Issuance of the Mandate is stayed until: March 05, 2001

If a Petition for Certiorari is timely filed with the Supreme Court of Colorado, then the stay shall remain in effect until disposition of the cause by that Court.

By the Court:

KAPELKE, J.
NEY, J.
Dailey, J.

ORDER DENYING WRIT OF CERTIORARI

CASE N0. 01SC122
SUPREME COURT, STATE OF COLORADO TWO EAST 14TH AVENUE DENVER, COLORADO 80203 CERTIORARI TO THE COURT OF APPEALS 99CA2159 DISTRICT COURT, ROUTT COUNTY, 99CV104
Petitioner: HOWARD M. TILLISON, v. Respondent: INVISIBLE, INC., a Colorado corporation.
ORDER OF COURT

Upon consideration of the Petition for Writ of Certiorari to the Colorado Court of Appeals, and after review of the record, briefs, and the judgment of said Court of Appeals,

IT IS THIS DAY ORDERED that said Petition for Writ of Certiorari shall be, and the same hereby is, DENIED.

BY THE COURT, EN BANC, MAY 21, 2001.

Seal: Supreme Court State of Colorado

File Stamp: Supreme Court State of Colorado
Certified to be a full, true and correct copy
May 21 2001
Mac V. Danford
Clerk of the Supreme Court
By: s/[illegible], Deputy Clerk
Court Seal

cc:

Howard M. Tillison
226 N. Peg St.
Ridgecrest, CA 93555

Richard E. Newton
Stern & Newton, P.C.
P. 0. Box 50, Solar Plaza
Granby, CO 80446

Patrick Stanford, Clerk
Colorado Court of Appeals

Clerk of Court
Routt County Courthouse
P.O. Box 773117
Steamboat Springs, CO 80477

Honorable Joel S. Thompson
Routt County Courthouse
P.O. Box 773117
Steamboat Springs, CO 80477

ORDER DENYING PETITION FOR REHEARING

CASE N0.01SC122

SUPREME COURT, STATE OF COLORADO
TWO EAST 14TH AVENUE
DENVER, COLORADO 80203

CERTIORARI TO THE COURT OF
APPEALS 99CA2159
DISTRICT COURT, ROUTT COUNTY, 99CV104

Petitioner: HOWARD M. TILLISON,
v.
Respondent: INVISIBLE, INC., a Colorado corporation.

ORDER OF COURT

Upon consideration of the Petition for Rehearing in the above cause, and now being sufficiently advised in the premises,

IT IS ORDERED that said Petition shall be, and the same hereby is, DENIED.

BY THE COURT, JUNE 7, 2001.

Seal: Supreme Court State of Colorado

File Stamp: Supreme Court State of Colorado
Certified to be a full, true and correct copy
June - 7 2001
Mac V. Danford
Clerk of the Supreme Court
By: s/(illegible), Deputy Clerk
Court Seal

cc:

Howard M. Tillison
226 N. Peg St.
Ridgecrest, CA 93555

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P. 0. Box 50, Solar Plaza
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Steamboat Springs, CO 80477

Honorable Joel S. Thompson
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P.O. Box 773117
Steamboat Springs, CO 80477

CALIFORNIA CODE OF CIVIL PROCEDURE

SECTION 1005

1005. (a) Written notice shall be given, as prescribed in subdivision (b), for the following motions:

(1) Notice of Application and Hearing for Writ of Attachment under Section 484.040.

(2) Notice of Application and Hearing for Claim and Delivery under Section 512.030.

(3) Notice of Hearing for Claim of Exemption under Section 706.105.

(4) Motion to Quash Summons pursuant to subdivision (b) of Section 418.10.

(5) Motion for Determination of Good Faith Settlement pursuant to Section 877.6.

(6) Hearing for Discovery of Peace Officer Personnel Records pursuant to Section 1043 of the Evidence Code.

(7) Notice of Hearing of Third-Party Claim pursuant to Section 720.320.

(8) Motion for an Order to Attend Deposition more than 150 miles from deponent's residence pursuant to paragraph (3) of subdivision
(e) of Section 2025.

(9) Notice of Hearing of Application for Relief pursuant to Section 946.6 of the Government Code.

(10) Motion to Set Aside Default or Default Judgment and for Leave to Defend Actions pursuant to Section 473.5.

(11) Motion to Expunge Notice of Pendency of Action pursuant to Section 405.30.

(12) Motion to Set Aside Default and for Leave to Amend pursuant to Section 585.5.

(13) Any other proceeding under this code in which notice is required and no other time or method is prescribed by law or by court or judge.

(b) Unless otherwise ordered or specifically provided by law, all moving and supporting papers shall be

served and filed at least 21 calendar days before the hearing. The moving and supporting papers served shall be a copy of the papers filed or to be filed with the court. However, if the notice is served by mail, the required 21-day period of notice before the hearing shall be increased by five calendar days if the place of mailing and the place of address are within the State of California, 10 calendar days if either the place of mailing or the place of address is outside the State of California but within the United States, and 20 calendar days if either the place of mailing or the place of address is outside the United States, and if the notice is served by facsimile transmission, express mail, or another method of delivery providing for overnight delivery, the required 21-day period of notice before the hearing shall be increased by two calendar days. Section 1013, which extends the time within which a right may be exercised or an act may be done, does not apply to a notice of motion, papers opposing a motion, or reply papers governed by this section. All papers opposing a motion so noticed shall be filed with the court and a copy served on each party at least 10 calendar days, and all reply papers at least five calendar days before the hearing. Notwithstanding any other provision of this section, all papers opposing a motion and all reply papers shall be served by personal delivery, facsimile transmission, express mail, or other means consistent with the provisions of Sections 1010, 1011, 1012, and 1013, and reasonably calculated to ensure delivery to the other party or parties not later than the close of the next business day after the time the opposing papers or reply papers, as applicable, are filed.

The court, or a judge thereof, may prescribe a shorter time.

CALIFORNIA CODE OF CIVIL PROCEDURE

SECTION 1064

1064. A judgment in a special proceeding is the final determination of the rights of the parties therein. The definitions of a motion and an order in a civil action are applicable to similar acts in a special proceeding.

CALIFORNIA CODE OF CIVIL PROCEDURE

SECTION 1710.10-1710.65

1710.10. As used in this chapter:

(a) "Judgment creditor" means the person or persons who can bring an action to enforce a sister state judgment.

(b) "Judgment debtor" means the person or persons against whom an action to enforce a sister state judgment can be brought.

(c) "Sister state judgment" means that part of any judgment, decree, or order of a court of a state of the United States, other than California, which requires the payment of money, but does not include a support order as defined in Section 155 of the Family Code.

1710.15. (a) A judgment creditor may apply for the entry of a judgment based on a sister state judgment by filing an application pursuant to Section 1710.20.

(b) The application shall be executed under oath and shall include all of the following:

(1) A statement that an action in this state on the sister state judgment is not barred by the applicable statute of limitations.

(2) A statement, based on the applicant's information and belief, that no stay of enforcement of the sister state judgment is currently in effect in the sister state.

(3) A statement of the amount remaining unpaid under the sister state judgment and, if accrued interest on the sister state judgment is to be included in the California judgment, a statement of the amount of interest accrued on the sister state judgment (computed at the rate of interest applicable to the judgment under the law of the sister state), a statement of the rate of interest applicable to the judgment under the law of the sister state, and a citation to the law of the sister state establishing the rate of interest.

(4) A statement that no action based on the sister state judgment is currently pending in any court in this state and that no judgment based on the sister state judgment has previously been entered in any proceeding in this state.

(5) Where the judgment debtor is an individual, a statement setting forth the name and last known residence address of the judgment debtor. Where the judgment debtor is a corporation, a statement of the corporation's name, place of incorporation, and whether the corporation, if foreign, has qualified to do business in this state under the provisions of Chapter 21 (commencing with Section 2100) of Division 1 of Title 1 of the Corporations Code. Where the judgment debtor is a partnership, a statement of the name of the partnership, whether it is a foreign partnership, and, if it is a foreign partnership, whether it has filed a statement pursuant to Section 15800 of the Corporations Code designating an agent for service of process. Except for facts which are matters of public record in this state, the statements required by this paragraph may be made on the basis of the judgment creditor's information and belief.

(6) A statement setting forth the name and address of the judgment creditor.

(c) A properly authenticated copy of the sister state judgment shall be attached to the application.

1710.20. (a) In a county in which there is a municipal court, the application shall be filed in a municipal court in all cases in which the sister state judgment amounts to twenty-five thousand dollars ($25,000) or less. The application shall be filed in a superior court in all other cases.

(b) Subject to the power of the court to transfer proceedings under this chapter pursuant to Title 4 (commencing with Section 392) of Part 2, the proper county for the filing of an application is any of the following:

(1) The county in which any judgment debtor resides.

(2) If no judgment debtor is a resident, any county in this state.

(c) A case in which the sister state judgment amounts to twenty-five thousand dollars ($25,000) or less is a limited civil case.

1710.25. (a) Upon the filing of the application, the clerk shall enter a judgment based upon the application for the total of the following amounts as shown therein:

(1) The amount remaining unpaid under the sister state judgment.

(2) The amount of interest accrued on the sister state judgment (computed at the rate of interest applicable to the judgment under the law of the sister state).

(3) The amount of the fee for filing the application for entry of the sister state judgment.

(b) Entry shall be made in the same manner as entry of an original judgment of the court. From the time of entry, interest shall accrue on the judgment so entered at the rate of interest applicable to a judgment entered in this state.

1710.30. (a) Notice of entry of judgment shall be served promptly by the judgment creditor upon the judgment debtor in the manner provided for service of

summons by Article 3 (commencing with Section 415.10) of Chapter 4 of Title 5 of Part 2. Notice shall be in a form prescribed by the Judicial Council and shall inform the judgment debtor that the judgment debtor has 30 days within which to make a motion to vacate the judgment.

(b) The fee for service of the notice of entry of judgment under this section is an item of costs recoverable in the same manner as statutory fees for service of a writ as provided in Chapter 5 (commencing with Section 685.010) of Division 1 of Title 9 of Part 2, but such fee may not exceed the amount allowed to a public officer or employee in this state for such service.

1710.35. Except as otherwise provided in this chapter, a judgment entered pursuant to this chapter shall have the same effect as an original money judgment of the court and may be enforced or satisfied in like manner.

1710.40. (a) A judgment entered pursuant to this chapter may be vacated on any ground which would be a defense to an action in this state on the sister state judgment, including the ground that the amount of interest accrued on the sister state judgment and included in the judgment entered pursuant to this chapter is incorrect.

(b) Not later than 30 days after service of notice of entry of judgment pursuant to Section 1710.30, proof of which has been made in the manner provided by Article 5 (commencing with Section 417.10) of Chapter 4 of Title 5 of Part 2, the judgment debtor, on written notice to the judgment creditor, may make a motion to vacate the judgment under this section.

(c) Upon the hearing of the motion to vacate the judgment under this section, the judgment may be vacated upon any ground provided in subdivision (a) and another and different judgment entered, including, but not limited to, another and different judgment for the judgment creditor if the decision of the court is that

the judgment creditor is entitled to such different judgment. The decision of the court on the motion to vacate the judgment shall be given and filed with the clerk of court in the manner provided in Sections 632, 634, and 635, except that the court is not required to make any written findings and conclusions if the amount of the judgment as entered under Section 1710.25 does not exceed one thousand dollars ($1,000).

1710.45. (a) Except as otherwise provided in this section, a writ of execution on a judgment entered pursuant to this chapter shall not issue, nor may the judgment be enforced by other means, until at least 30 days after the judgment creditor serves notice of entry of the judgment upon the judgment debtor, proof of which has been made in the manner provided by Article 5 (commencing with Section 417.10) of Chapter 4 of Title 5 of Part 2.

(b) A writ of execution may be issued, or other enforcement sought, before service of the notice of entry of judgment if the judgment debtor is any of the following:

(1) An individual who does not reside in this state.

(2) A foreign corporation not qualified to do business in this state under the provisions of Chapter 21 (commencing with Section 2100) of Division 1 of Title 1 of the Corporations Code.

(3) A foreign partnership which has not filed a statement pursuant to Section 15700 of the Corporations Code designating an agent for service of process.

(c) The court may order that a writ of execution be issued, or may permit enforcement by other means, before service of the notice of entry of judgment if the court finds upon an ex parte showing that great or irreparable injury would result to the judgment creditor if issuance of the writ or enforcement were delayed as provided in subdivision (a).

(d) Property levied upon pursuant to a writ issued under subdivision (b) or (c) or otherwise sought to be applied to the satisfaction of the judgment shall not be sold or distributed before 30 days after the judgment creditor serves notice of entry of the judgment upon the judgment debtor, proof of which has been made in the manner provided by Article 5 (commencing with Section 417.10) of Chapter 4 of Title 5 of Part 2. However, if property levied upon is perishable, it may be sold in order to prevent its destruction or loss of value, but the proceeds of the sale shall not be distributed to the judgment creditor before the date sale of nonperishable property is permissible.

1710.50. (a) The court shall grant a stay of enforcement where:

(1) An appeal from the sister state judgment is pending or may be taken in the state which originally rendered the judgment. Under this paragraph, enforcement shall be stayed until the proceedings on appeal have been concluded or the time for appeal has expired.

(2) A stay of enforcement of the sister state judgment has been granted in the sister state. Under this paragraph, enforcement shall be stayed until the sister state stay of enforcement expires or is vacated.

(3) The judgment debtor has made a motion to vacate pursuant to Section 1710.40. Under this paragraph, enforcement shall be stayed until the judgment debtor's motion to vacate is determined.

(4) Any other circumstance exists where the interests of justice require a stay of enforcement.

(b) The court may grant a stay of enforcement under this section on its own motion, on ex parte motion, or on noticed motion.

(c) The court shall grant a stay of enforcement under this section on such terms and conditions as are just including but not limited to the following:

(1) The court may require an undertaking in an amount it determines to be just, but the amount of the undertaking shall not exceed double the amount of the judgment creditor's claim.

(2) If a writ of execution has been issued, the court may order that it remain in effect.

(3) If property of the judgment debtor has been levied upon under a writ of execution, the court may order the levying officer to retain possession of the property capable of physical possession and to maintain the levy on other property.

1710.55. No judgment based on a sister state judgment may be entered pursuant to this chapter in any of the following cases:

(a) A stay of enforcement of the sister state judgment is currently in effect in the sister state.

(b) An action based on the sister state judgment is currently pending in any court in this state.

(c) A judgment based on the sister state judgment has previously been entered in any proceeding in this state.

1710.60. (a) Except as provided in subdivision (b), nothing in this chapter affects any right a judgment creditor may have to bring an action to enforce a sister state judgment.

(b) No action to enforce a sister state judgment may be brought where a judgment based on such sister state judgment has previously been entered pursuant to this chapter.

1710.65. The entry of a judgment based on a sister state judgment pursuant to this chapter does not limit the right of the judgment creditor to bring an action based on the part of a judgment of a sister state which does not require the payment of money, nor does the bringing of such an action limit the right of the judgment creditor to obtain entry of judgment based on the sister state judgment pursuant to this chapter.

Uniform Enforcement of Foreign Judgments Act, § 13-53-101 et. seq., 2000

13-53-101 Short title.

This article shall be known and may be cited as the "Uniform Enforcement of Foreign Judgments Act"

13-53-102 Definition.

As used in this article, unless the context otherwise requires:
(1) "Foreign judgment" means any judgment, decree, or order of a court of the United States or of any other court, except a protection order or a restraining order as described in section 18-6-803.8, C.R.S., that is entitled to full faith and credit in this state.

13-53-103 Filing and status of foreign judgments.

A copy of any foreign judgment authenticated in accordance with the act of congress or the laws of this state may be filed in the office of the clerk of any court of this state which would have had jurisdiction over the original action had it been commenced first in this state. A judgment so filed has the same effect and is subject to the same procedures, defenses, and proceedings for reopening, vacating, or staying as a judgment of the court of this state in which filed and may be enforced or satisfied in like manner.

13-53-104 Notice of filing.

(1) At the time of the filing of the foreign judgment, the judgment creditor or his lawyer shall make and file with the clerk of court an affidavit setting forth the

name and last-known post-office address of the judgment debtor and the judgment creditor.
(2) Promptly upon the filing of the foreign judgment and the affidavit, the clerk shall mail notice of the filing of the foreign judgment to the judgment debtor at the address given and shall make a note of the mailing in the docket. The notice shall include the name and post-office address of the judgment creditor and the judgment creditor's lawyer, if any, in this state. In addition, the judgment creditor may mail a notice of the filing of the judgment to the judgment debtor and may file proof of mailing with the clerk. Lack of mailing notice of filing by the clerk shall not affect the enforcement proceedings if proof of mailing by the judgment creditor has been filed.
(3) No execution or other process for enforcement of a foreign judgment filed under this article shall issue until ten days after the date the judgment is filed.

13-53-105 Stay.

(1) If the judgment debtor shows the court that an appeal from the foreign judgment is pending or will be taken or that a stay of execution has been granted, the court shall stay enforcement of the foreign judgment until the appeal is concluded, the time for appeal expires, or the stay of execution expires or is vacated upon proof that the judgment debtor has furnished the security for the satisfaction of the judgment required by the state in which it was rendered.
(2) If the judgment debtor shows the court any ground upon which enforcement of a judgment of a court of this state would be stayed, the court shall stay enforcement of the foreign judgment for an appropriate period upon requiring the same security for satisfaction of the judgment which is required in this state.

13-53-106 Fees.

(1) Any person filing a foreign judgment shall pay to the clerk of the court ninety dollars. Fees for docketing, transcription, or other enforcement proceedings shall be as provided for judgments of the courts of this state.

(2) Notwithstanding the amount specified for the fee in subsection (1) of this section, the chief justice of the supreme court by rule or as otherwise provided by law may reduce the amount of the fee if necessary pursuant to section 24-75-402 (3), C.R.S., to reduce the uncommitted reserves of the fund to which all or any portion of the fee is credited. After the uncommitted reserves of the fund are sufficiently reduced, the chief justice by rule or as otherwise provided by law may increase the amount of the fee as provided in section 24-75-402 (4), C.R.S.

13-53-107 Optional procedure.

The right of a judgment creditor to bring an action to enforce his judgment instead of proceeding under this article remains unimpaired.

13-53-108 Uniformity of interpretation.

This article shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.